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UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

* * *

LeShaun Young,

Plaintiff,

v.

United States of America, et al.,

Defendants.

Case No. 2:21-cv-01697-RFB-DJA

Report and Recommendation

After the Court rejected Plaintiff LeShaun Young's initial complaint (ECF No. 1-1) for failure to pay the filing fee or including an application to proceed *in forma pauperis*, Plaintiff filed his application. (ECF No. 4). Plaintiff also filed a motion to appoint counsel (ECF No. 7) and a motion to transfer to multidistrict litigation (ECF No. 5). Because Plaintiff's complaint is delusional and frivolous, the Court recommends dismissal with prejudice. It further recommends that Plaintiff's motion to appoint counsel and motion to transfer to multidistrict litigation be denied as moot. The Court finds these matters properly resolved without a hearing. LR 78-1.

I. Background.

Plaintiff's original complaint is nearly impossible to decipher. (ECF No. 1-1). Plaintiff seems to allege claims against former presidents and other public figures for violations of Plaintiff's privacy rights. (*Id.* at 2-3). Plaintiff names even more public figures in his application to proceed *in forma pauperis*, including the hosts of "Shark Tank," the Pope, Oprah Winfrey, Elon Musk, George Lucas, and many others. (ECF No. 4 at 7). Plaintiff seems to assert claims for violations of his constitutional rights and mail fraud against these individuals. (*Id.*).

II. Discussion.

The Court recommends dismissing Plaintiff's complaint with prejudice. District courts have the authority to dismiss cases *sua sponte* without notice to the plaintiff when he "cannot possibly win relief." *Sparling v. Hoffman Constr. Co.*, 864 F.2d 635, 638 (9th Cir. 1998). A complaint should be dismissed for failure to state a claim upon which relief may be granted "if it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claims that would entitle him to relief." *Buckey v. Los Angeles*, 968 F.2d 791, 794 (9th Cir. 1992). A complaint may be dismissed as frivolous if it is premised on a nonexistent legal interest or delusional factual scenario. *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989). The court liberally construes *pro se* complaints and may only dismiss them "if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir. 2014).

Here, even liberally construing Plaintiff's complaint, the Court finds that the factual allegations are nearly impossible to understand and describe factual and delusional scenarios that do not state a claim upon which relief can be granted. Plaintiff cannot state a claim and the complaint is properly characterized as frivolous and delusional. Given that both Plaintiff's original complaint and his later-filed application to proceed *in forma pauperis* both contained indecipherable and fantastic claims, amendment would be futile. The Court thus recommends dismissal with prejudice.

REPORT AND RECOMMENDATION

IT IS THEREFORE RECOMMENDED that Plaintiff's complaint (ECF No. 1-1) be dismissed with prejudice as delusional and frivolous.

¹ When a plaintiff seeks to proceed *in forma pauperis*, courts screen the complaint to ensure that a claim for relief has been stated. 28 U.S.C. § 1915(e). Here, Plaintiff filed an incomplete application to proceed *in forma pauperis* and failed to sign his application. (ECF No. 4). Given the Court's separate ability to dismiss the complaint under to the authority cited above, however, the Court need not address whether Plaintiff qualifies to proceed *in forma pauperis* before recommending dismissal.

IT IS FURTHER RECOMMENDED that Plaintiff's application to proceed *in forma* pauperis (ECF No. 4), motion to transfer to multidistrict litigation (ECF No. 5) and motion for appointment of counsel (ECF No. 7) be **denied as moot.**

NOTICE

Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985) *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED: December 15, 2021

DANIEL J. ALBREGTS UNITED STATES MAGISTRATE JUDGE